

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

MAR 29 2006

MICHAEL N. MILBY, CLERK OF COURT

MARK A. HANSEN,
Plaintiff,

vs.

AON RISK SERVICES OF TEXAS, INC.
individually and d/b/a AON RISK SERVICES,
Defendant.

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CIVIL ACTION NO.: H-05-3437
JURY

FIRST AMENDED COMPLAINT

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

NOW COMES, Mark A. Hansen, Plaintiff, complaining of AON Risk Services of Texas, Inc. individually and d/b/a AON Risk Services, Defendant, and would show the following:

PARTIES

1. Plaintiff, *Mark A. Hansen* ("Hansen"), is an individual residing in Fort Bend County, Texas.
2. Defendant, *AON Risk Services of Texas, Inc.* ("AON Risk Services") is a Texas corporation registered to do business in the State of Texas and who is doing business in Texas individually and as AON Risk Services. AON Risk Services has already answered herein.

JURISDICTION

3. This Court has jurisdiction over this case pursuant to the district court's federal question jurisdiction as set forth in 28 U.S.C. § 1331 and the district court's supplemental jurisdiction (28 U.S.C. §1367). Specifically, this case arises under Title VII of the Civil Rights Act of 1964, as amended ("Title VII") and Chapter 21 of the Texas Labor Code (Texas Commission on Human Rights Act or "TCHRA").

VENUE

4. Venue of this action is proper in this judicial district and division pursuant to 28 U.S.C. § 1391(a) in that it is the judicial district of Defendant's principal place of business and where the events giving rise to the cause of action took place.

STATEMENT OF CAUSES OF ACTION

5. Hansen is a male.

6. Hansen began working for AON Risk Services on May 3, 2001.

7. Hansen was a good performer and regularly received merit pay increases and larger than average bonuses, and never received a written warning or written reprimand.

8. When Hansen began with AON Risk Services, there were four male Directors in the Houston Service Center including Hansen.

9. In early 2002, Victoria McDonough ("McDonough"), Managing Director, became Hansen's direct supervisor. While McDonough was Managing Director she terminated two of the male directors and a third resigned. McDonough replaced all three of these men with females.

10. On May 5, 2003, McDonough demoted Hansen (effective June 4, 2003) to the position of Assistant Director, Client Services Unit. Donna Parsley ("Parsley") became Hansen's direct supervisor. At the same time, McDonough denied Hansen the opportunity for a transfer to the position of Director, Document Production.

11. Instead, McDonough gave the Director, Document Production job to a less qualified female. The female who was given the job had no insurance experience at the time. Hansen had nine years of insurance experience at the time.

12. Then, on November 4, 2003, McDonough notified Hansen he was going to be terminated, but asked him to stay on for one month to complete a special assignment.

13. On November 6, 2003, Parsley called Hansen and told him AON Risk Services had hired a woman to replace him and she (the woman) would be sitting at his desk when he returned.

GENDER DISCRIMINATION

14. Defendant violated Title VII of the Civil Rights Act of 1964, as amended ("Title VII") and Chapter 21 of the Texas Labor Code (Texas Commission on Human Rights Act or "TCHRA") by discriminating against Plaintiff because of his gender. Plaintiff's gender was a motivating factor in Defendant's decision to demote Plaintiff, deny him a transfer and terminate him.

15. As a result of Defendant's conduct, Plaintiff has suffered damages by way of loss of back pay and benefits, front pay and benefits, mental anguish, emotional distress, humiliation and loss of enjoyment of life and other pecuniary and non-pecuniary compensatory damages in the past and in the future.

16. Defendant acted with malice or reckless indifference to Plaintiff's federally protected and state protected rights and as such justifies an award of punitive damages. Plaintiff seeks an award of punitive damages against Defendant.

17. Plaintiff contends that reinstatement is not feasible.

ATTORNEY'S FEES

18. Defendant's conduct in violation of Title VII and the TCHRA has made it necessary for Plaintiff to employ the undersigned attorney to prosecute this lawsuit. Accordingly, Plaintiff seeks a reasonable attorney's fee for the services rendered and to be rendered pursuant to Title VII and the TCHRA, which allows recovery of attorney's fees and costs/expenses.

19. Plaintiff also seeks a conditional award of attorney's fees in the event of an appeal in this matter.

ADMINISTRATIVE PREREQUISITES

20. Plaintiff has performed all conditions precedent to bringing this cause of action under Title VII and the TCHRA.

21. Plaintiff timely filed a written complaint with the Texas Commission on Human Rights (now the Texas Workforce Commission—Civil Rights Division) —and by deferral with the Equal Employment Opportunity Commission (“EEOC”) —on or about April 26, 2004 and subsequently filed a form charge of discrimination on or about September 25, 2004. *See* Exhibit A. The filing of the form charge relates back to the initial filing of the written complaint. The Texas Workforce Commission—Civil Rights Division (“TWC—CRD”) issued a Dismissal and Notice of Right to File a Civil Action on or about May 13, 2005. *See* Exhibit B.

22. On or about May 21, 2005, Hansen appealed the TWC-CRD decision to the EEOC. *See* Exhibit C. On July 8, 2005, the EEOC issued a Dismissal and Notice of Rights. *See* Exhibit D.

23. Plaintiff timely filed this lawsuit on October 6, 2005.

JURY DEMAND

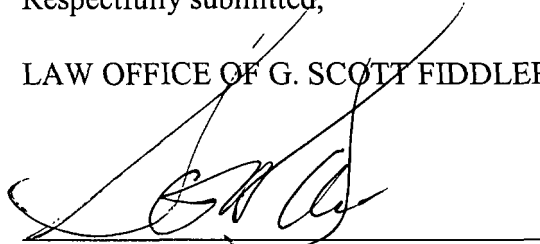
24. Plaintiff demands a jury on all issues to be tried in this matter.

PRAYER

WHEREFORE, Plaintiff requests that upon final trial he be awarded judgment against Defendant for actual damages, compensatory and punitive damages, costs of suit, pre-judgment interest and post-judgment interest at the highest legal rate, and such other and further relief, whether general or special, legal or equitable, to which he may be justly entitled.

Respectfully submitted,

LAW OFFICE OF G. SCOTT FIDDLER, P.C.



G. SCOTT FIDDLER

TBA # 06957750

FID# 12508

13831 Northwest Freeway, Suite 510

Houston, Texas 77040

Tel: 713-661-1146

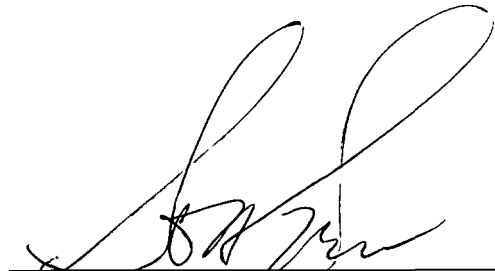
Fax: 713-462-7998

ATTORNEY-IN-CHARGE
FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document and proposed Order has been forwarded via certified mail, return receipt requested, in accordance with the Federal Rules of Civil Procedure on this the 29th day of March 2006, to the following:

Kerry E. Notestine, Esq.
Littler Mendelson
1301 McKinney Street
Houston, TX 77010
Fax No. 713-951-9212


G. SCOTT FIDDLER

RECEIVED

DATE RECEIVED BY TCHR

APR 26 2004

INTAKE QUESTIONNAIRE

TCHR

PLEASE COMPLETE THE REQUESTED INFORMATION. If returning by mail: Texas Commission on Human Rights, P.O. Box 13006, Austin, TX 78711.

NOTE: FAILURE TO PROVIDE COMPLETE INFORMATION MAY RESULT IN DELAYED PROCESSING OF YOUR COMPLAINT.

COMPLAINANT:EMPLOYER:Name: Mark A. HansenCompany Name: Aon Risk Services of Texas, Inc.Address: 5431 Portage Rock Lane

Street address where you actually worked:

City: Katy Zip: 774501330 Post Oak, Suite 900Home Phone#: 281-578-6169City: Houston Zip: 77056-3089

Work Phone#: _____

Phone#: 832-476-6000 County: HarrisSSN#: 063-48-8525Number of Employees: 500+EMERGENCY CONTACT:COMPANY PERSONNEL DIRECTOR/OFFICER:

Name: _____

Name: Ernie Joyner

Address: _____

REDACTED

Title: Human Resource Manager

City: _____

Phone# (if different): 832-476-6866

Phone#: _____

DATE YOU WERE HIRED BY THE COMPANY/AGENCY: May 3, 2001LAST POSITION TITLE YOU HELD: Assistant Director, Client Services UnitDATE OF THE LAST INCIDENT OF DISCRIMINATION: November 4, 2003

I. The discrimination you suffered was because of your: [Circle ONLY the basis you are filing under. (Example: Race Black or White Sex female or male Age 47 years (Date of Birth 10/30/52) Disability back impairment)

Race _____ Color _____ National Origin _____ Sex Male
Religion _____ Disability _____ Age (Date of Birth) _____

II. Check ONLY the type of personnel action taken against you by your employer:

<input checked="" type="checkbox"/> Demotion (D1)	<input checked="" type="checkbox"/> Discharge (D2)	<input type="checkbox"/> Layoff (L1)
<input type="checkbox"/> Maternity (M1)	<input type="checkbox"/> Wages (W1)	<input type="checkbox"/> Sexual Harassment (S4)
<input type="checkbox"/> Discipline (D3)	<input type="checkbox"/> Promotion (P3)	<input type="checkbox"/> Terms & Conditions (T2)
<input type="checkbox"/> Training (T4)	<input type="checkbox"/> Suspension (S5)	<input checked="" type="checkbox"/> Hiring (H2)
<input type="checkbox"/> Harassment (H1)	<input checked="" type="checkbox"/> Retaliation (R6)	<input type="checkbox"/> Other (O1)

EXHIBIT A

INTAKE QUESTIONNAIRE
Page Two

III. Please answer the following questions briefly (If you need more space, please use reverse side of form).

A. Provide the date of each and every action, the full name and position title of each person involved, and the action taken against you.

Allegation #1: Date: 5/5/2003 Action: Demotion

Explanation: Vickie McDonough demoted me from Director - Placement Services Unit to Assistant Director - Client Services Unit. Demotion was effective on 6/4/2003.

Allegation #2: Date: 5/5/2003 Action: Denied Lateral Transfer

Explanation: Vickie McDonough stated that I couldn't have the Director - Document Production Position because the former Director had "raised the bar."

Allegation #3: Date: 11/4/2003 Action: Terminated

Explanation: Vickie McDonough and Donna Parsley terminated me from the Assistant Director - Client Services Unit position.

B. Provide the reasons the Respondent gave you for each action taken against you.

Allegation #1: Vickie McDonough demoted me stating that "maybe your wife's pregnancy has distracted you from your job."

Allegation #2: I was told that I could not have the Director - Document Production position because the former Director had "raised the bar" however Vickie McDonough gave the position to a woman with no insurance experience. I had nine years of insurance experience at the time. (see back pg

Allegation #3: After being terminated on 11/4/2003 I was asked to stay on for one month to complete a special assignment. On 11/6/2003 Donna Parsley called me at home to say they hired a woman to replace me and she would be sitting at my desk when I returned.

C. What did your race, color, national origin, religion, sex, age, or disability, have to do with the action taken against you?

Allegation #1: In 2001 there were four male Directors. Vickie McDonough became the Managing Director in early 2002, and by November 2003 only one male Director remained. The remaining male Director is age 47+. This Director has been reassigned three times in the last six months including an

Allegation #2: extended assignment in another state.

I never received a performance review or a negative counseling report while employed by Aon. My last merit increase was on 4/1/2003 and was reflective of the company's standard increase. I received a more than average bonus.

Allegation #3: _____

INTAKE QUESTIONNAIRE
Page Three

D. Provide the full name(s) of other employees in a same or similar position to you, that were treated differently by the Respondent under similar conditions. (Example: John Smith - Black or White)

Sharon Patin - Female. Donna Parsley - Female.

Kimberley Overgoner - Female. Mary Salazar - Female.

IV. RETALIATION: If you complained to management in opposition of unlawful discriminatory practices, testified as a witness in a discrimination complaint, aided another employee in the preparation of a discrimination complaint, filed a charge and/or assisted in an employment discrimination investigation, and the Respondent took retaliatory action against, you provide the following:

Date(s) you participated in any of the above protected activity (ies):

Full name and position title of the person(s) you complained to:
(Example: John Smith, Supervisor, Black)

Date(s) and description(s) of retaliatory action taken against you:

INTAKE QUESTIONNAIRE
Page Four

V.If you have retained an attorney to represent you during investigation, please have him/her provide our office with a letter of representation.

VI.Please indicate if you have previously filed any complaint with any of the agencies listed below:

_____ Texas Commission on Human Rights (TCHR)
_____ Equal Employment Opportunity Commission (EEOC)
_____ National Labor Relations Board (MLRB)
_____ Office of Federal Contract Compliance Program (OFCCP)
_____ Other Agency: (Give Name) _____

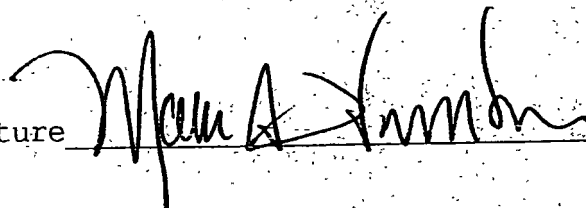
If so, identify the date(s) of filing: _____

Charge Number(s): _____

Indicate what resolution(s) was reached for each:

* In addition to filing my claim with the Texas Commission on Human Rights please file my claim with the Equal Employment Opportunity Commission.

Signature



Date

4-19-2004

TUCCRD

CHARGE OF DISCRIMINATION		AGENCY	FILE NUMBER
THIS FORM IS PROTECTED BY THE Privacy Act of 1974; See Privacy Act Statement before completing this form.		<input checked="" type="checkbox"/> FEPA <input type="checkbox"/> EEOC	1A7000211 81CA70003
T.W.C. Civil Rights Division State or local Agency, if any		and EEOC	
NAME (Last, first, middle initial) Mr. Mark A. Hansen		HOME TELEPHONE (Area Code) (281) 511-5169	
STREET ADDRESS 5431 Portage Rock Lane, Katy, TX 77450		DATE OF BIRTH	
NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If none, then state below)			
NAME Aon Risk Services Of Texas, Inc.		NUMBER OF EMPLOYEES Cat A (15-100)	
STREET ADDRESS 1230 Post Oak, Ste 900, Houston, TX 77056-3289		TELEPHONE (Area Code) (832) 575-6000	
NAME		TELEPHONE NUMBER (Area Code) 291	
STREET ADDRESS		CITY, STATE AND ZIP CODE	
CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))		DATE DISCRIMINATION TOOK PLACE (month/year)	
<input type="checkbox"/> RACE <input type="checkbox"/> COLOR <input checked="" type="checkbox"/> SEX <input type="checkbox"/> RELIGION <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RETALIATION <input type="checkbox"/> AGE <input type="checkbox"/> DISABILITY <input type="checkbox"/> OTHER (specify):		11/04/2003 04/2003	
THE PARTICULARS ARE (If additional space is needed, attach extra sheet(s))		<input type="checkbox"/> CONTINUATION	
Original received 4/26/04			
I. On 11/4/03, I was discharged from my position as Assistant Director, Client Services Unit. I was asked to stay on for one month to complete a special assignment. Donna Parsley informed me they had hired a woman to replace me and she would be sitting at my desk when I returned.			
II. No reason given.			
III. I believe that I have been discriminated against, in violation of Title VII of the Civil Rights Act as amended, based on my sex, Male.			
I want this charge filed with both the EEOC and the State or local Agency, if any. I will advise the agencies if I change my address or telephone number and cooperate fully with them in the processing of my charge in accordance with their procedures.		NOTARY (When or after my license expires, date)	
I declare under penalty of perjury that the foregoing is true and correct.		I swear under oath that I have read the above and that it is true to the best of my knowledge, information and belief.	
Date 7/25/04		SIGNATURE OF CHARGING PARTY Mark A. Hansen	
Charging Party (Signature)		SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE Month, day and year 7-25-04	



DISMISSAL AND NOTICE OF RIGHT TO FILE A CIVIL ACTION

TO: Mark A. Hansen 5431 Portage Rock Ln. Katy, Texas 77450	FROM: TWC, Civil Rights Division P. O. Box 13006 Austin, TX 78711-3006	
TWCCRD Charge No. 1A50002-H	EEOC Charge No. 31CA500035	TWCCRD Representative Patricia McCormick Powell

THE TWCCRD IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

<input type="checkbox"/>	The facts alleged in the charge fail to state a claim under any of the statutes enforced by the TWCCRD.
<input type="checkbox"/>	Your allegations did not involve a disability that is covered by the Americans with Disabilities Act or the Texas Commission on Human Rights Act.
<input type="checkbox"/>	The Respondent employs less than the required number of employees or not otherwise covered by the statutes.
<input type="checkbox"/>	We cannot investigate your charge because it was not filed within the time limits required by law.
<input type="checkbox"/>	Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
<input type="checkbox"/>	While reasonable efforts were made to locate you, we were not able to do so.
<input type="checkbox"/>	You had 30 days to accept a reasonable settlement offer that afforded full relief for the harm you alleged. You failed to accept the full relief.
<input checked="" type="checkbox"/>	The TWCCRD issues the following determination: Based upon its investigation, the TWCCRD is unable to conclude that the information obtained establishes any violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
<input type="checkbox"/>	Other (briefly state):

NOTICE OF RIGHT TO FILE A CIVIL ACTION

Pursuant to Sections 21.208, 21.252 and 21.254 of the Texas Labor Code, as amended, this notice is to advise you of your right to bring a private civil action in state court in the above referenced case. **PLEASE BE ADVISED THAT YOU HAVE SIXTY (60) DAYS FROM THE RECEIPT OF THIS NOTICE TO FILE THIS CIVIL ACTION.** (The time limit for filing suit based on a federal claim may be different.)

EEOC REVIEW NOTICE

AS YOUR CHARGE WAS DUAL FILED UNDER TITLE VII OF THE CIVIL RIGHTS ACT/AGE DISCRIMINATION IN EMPLOYMENT ACT/AMERICANS WITH DISABILITIES ACT, WHICH ARE ENFORCED BY THE U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC), YOU HAVE THE RIGHT TO REQUEST EEOC REVIEW OF THIS FINAL DECISION ON YOUR CASE. TO SECURE A REVIEW, YOU MUST REQUEST IT IN WRITING WITHIN FIFTEEN (15) DAYS OF THE RECEIPT OF THIS NOTICE. YOUR REQUEST SHOULD BE SENT TO THE U.S. EQUAL OPPORTUNITY COMMISSION OFFICE AS APPROPRIATE.

☐ DALLAS EEOC
207 SOUTH HOUSTON ST
DALLAS, TX 75202

☒ HOUSTON EEOC
1919 SMITH ROAD, 7TH FLOOR
HOUSTON, TX 77002

☐ SAN ANTONIO EEOC
5410 FREDERICKSBURG RD, STE. 200
MOCKINGBIRD PLAZA, PLAZA II
SAN ANTONIO, TX 78229

cc: Rebecca L. Mackin, EEO Specialist
AON Group, Inc.
200 East Randolph St., 8th Floor
Chicago, IL 60601

On behalf of the Commission

Cade Winchester
Cade Winchester
Team Leader 2, TWCCRD

05/13/05
DATE

EXHIBIT B

May 21, 2005

5431 Portage Rock Lane
Katy, TX 77450

Houston EEOC
1919 Smith Road
7th Floor
Houston, TX 77002

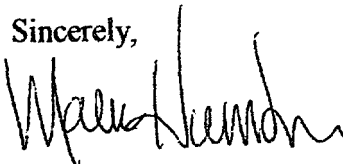
REFERENCE: Mark A. Hansen v. AON Risk Services of Texas, Inc.
TWCCRD #: 1A50002-H; EEOC #: 31CA500035

Dear Madam or Sir:

Pursuant to the TWCCRD's letter dated 05/13/05 I respectfully request that the EEOC review the TWCCRD's final decision of my claim. I have requested this review within fifteen (15) days of the receipt of this notice.

Please contact me if I can provide any further information to aid you in the investigation and your finding of gender discrimination against Aon Risk Services of Texas, Inc.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Hansen", written over a horizontal line.

Mark A. Hansen

Enc. Dismissal and Notice of Right to File a Civil Action

EXHIBIT C

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: **Mark A. Hansen**
5431 Portage Rock Lane
Katy, TX 77450

From: **Houston District Office**
1919 Smith St, 7th Floor
Houston, TX 77002

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

31C-2005-00035

Ronald G. Wideman,
State and Local Coordinator

(713) 209-3332**THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:**

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- ☐ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☒ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

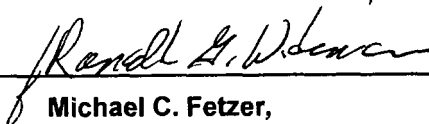
- NOTICE OF SUIT RIGHTS -

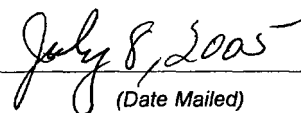
(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS of your receipt of this Notice**; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission,


Michael C. Fetzer,
Acting Director


 (Date Mailed)

Enclosure(s)

cc: **Ernie Joyner**
Human Resources Manager
AON RISK SERVICES OF TEXAS, INC.
1330 Post Oak, Ste 900
Houston, TX 77056

TWC-CRD
P. O. Box 13006
Austin, TX 77075

Rebecca L. Mackin
EEO Specialist
AON GROUP, INC.
200 East Randolph St., 18 th Floor
Chicago, IL 60601

EXHIBIT D